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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,866	03/23/2007	Fiorenzo Draghetti	99759.00017	3831
72535	7590	05/17/2010	EXAMINER	
MCCARTER & ENGLISH, LLP	STAMFORD		LANDRUM, EDWARD F	
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201 BROAD STREET, 9TH FLOOR			ART UNIT	PAPER NUMBER
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			05/17/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/579,866	DRAGHETTI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	EDWARD F. LANDRUM	3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 March 2010.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.  
 4a) Of the above claim(s) 5-13 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3 is/are rejected.  
 7) Claim(s) 4 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 18 May 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/18/2006</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I in the reply filed on 3/25/2010 is acknowledged.

Claims 5-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/25/2010.

### ***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. This is specifically referring to GB-1095970 disclosed in page 1 of the specification. This reference has not been considered.

### ***Drawings***

3. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because counter cutting device 4, sleeve 5, slits 7, blade 8, and cylindrical core 18 are not shown in enough detail or clear enough for examiner to understand what each of these parts are and what they do. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and

Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first axis extending through the counter-cutting device as disclosed in claim 1, and the curved lateral surface being coaxial with the first axis as disclosed in claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Regarding claim 4, the curved lateral surface itself is not coaxial with the first axis. Examiner is interpreting this to mean that a circle formed by the curve of the curved lateral surface has an axis that is coaxial with the first axis.

5. To speed up prosecution the following objections pertain to subject matter found within the withdrawn claims.

Regarding claim 6, the rib is not shown as projecting upward from the supporting body. Furthermore the arc is not coaxial with the first axis but a center point of a circle formed by the arc is coaxial as discussed with claim 4 above. The same goes for the slot (26).

Regarding claim 9, the T-section groove (39) is not coaxial with the first axis, similar to as discussed with regards to claim 4, above is not shown.

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seragnoli (U.S Patent No. 4,398,438) in view of Romo et al (U.S Publication No. 2004/0154448), hereinafter Romo, or Ceroll et al (U.S Patent No. 6,820,524), hereinafter Ceroll, in further view of Pollock et al (U.S Patent No. 7,191,690), hereinafter Pollock.

Seragnoli teaches (Figures 1 and 2) a cutting unit for cutting continuous cigarette rods (3 and 4) comprising a supporting body (2), a cutting head (19, 20, and 29) fitted to the supporting body rotate about a first axis (17), a counter cutting device (50) engaged by the cigarette rods and through which the first axis (17) extends, a locking means (23) for locking the cutting head in position on the supporting body (Col. 3, lines 37-42). The cutting head comprises a cutting drum (29) which rotates about a second axis forming an angle with a traveling direction of the feeding of the cigarette rods. The drum has at least one radial blade (13).

Seragnoli teaches all of the elements of the current invention as stated above except the locking means comprising an automatic release means for releasing the cutting head with respect to the body, a motorized actuating means separated from the locking means and interposed between the support body and the cutting head to rotate the cutting head about the first axis, and a sensor means for determining the angle.

Romo teaches (Paragraph 58) teaches the equivalence of a screw type angle locking means and an automatic cam type angle locking means on a cutting device.

Ceroll teaches (Col. 5, lines 17-64) it is old and well known to use an automatic cam means (64, 68, and 96) to lock a rotating cutter at a specific angle after that specific angle has been reached.

Because Seragnoli, Romo, and Ceroll teach means of locking a pivotable rotating cutter in place after the rotating cutter has been positioned at a specific angle, it would have been obvious to substitute an automatic cam means for the screw type locking

system of Seragnoli to achieve the predictable result of using a locking means that prevented movement of the rotating cutter once a cutting angle had been set.

Pollock teaches (Col. 2, lines 1-29; Col. 3, lines 17-67; Col. 4, lines 7-36) it is known to provide a motorized actuating means (12) between a support (9) and a cutting head (10) to pivot the cutting head (10) about an axis to vary an angle (alpha) between a cutter (2) and a traveling direction (7) in order to change the length of a cut article cut from a continuous work piece. A sensor means (8), potentially optical, monitors the cutting operation and allows for the changing of the cutting angle. Since the cutting angle can be changed based on the sensor's readings the sensor monitors the angle.

It would have been obvious to have modified Seragnoli to incorporate the teachings of Pollock to provide a motorized system and sensing means to monitor and adjust the angle of the cutting head with respect to the traveling direction of the cigarette rods. Doing so would have eliminated errors associated with a user manually setting an angle by hand. Furthermore, it has been held that there is no invention in broadly applying mechanical or automatic means to replace manual activity which has accomplished the same result. Therefore, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide a motorized means to rotate the cutting head with respect to the angle formed between the axis of rotation of the cutting head and the travelling direction of the cigarette rods for the purpose of adjusting the length of the cigarettes being cut.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified device of Seragnoli in view of Miller et al (U.S Patent No. 4,220,077), hereinafter Miller.

The modified device of Seragnoli teaches all of the elements of the current invention as stated above except the sensor comprises a scale located on the cutting head and using the optical reader for determining the angle on the scale.

Miller teaches (Col. 4, lines 5-37) teaches it is old and well known to provide a scale (encoder 48) on a moving part of a cutting device and using the optical sensor (32 and 33) in conjunction with the scale to determine the position of the moving part.

It would have been obvious to have modified the modified device of Seragnoli to incorporate the teachings of Miller to place a scale on the cutting head in order to determine the angle of the cutting head with respect to the feed direction of the cigarette rods as doing so is a known way to use an optical sensor and would have produced the predictable result of accurately determining the angle of the cutting head.

#### ***Allowable Subject Matter***

9. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: No teaching can be found to provide the scale on a curved lateral surface of a cutting head with the curved lateral surface being part of a circle with an axis coaxial with the first axis.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Neff (U.S Patent No. 3,552,251), Ronai (U.S Patent No. 3,630,126), and Svetlik et al (U.S Publication No. 2004/0074362) teach elements of the current invention.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWARD F. LANDRUM whose telephone number is (571)272-5567. The examiner can normally be reached on 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/EDWARD F LANDRUM/  
Examiner, Art Unit 3724  
5/13/2010